



2024:DHC:251-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.01.2024

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W.P.(C) 386/2024

UNION OF INDIA & ORS.

..... Petitioner

Through: Mr.Rajeev Sharma, Sr.Adv. with
Uddyam Mukherjee, Mr.Swapnil Pattanyak,
Ms.Anuja Mishra, Advs.

Versus

ANIL KUMAR SHARMA & ORS.

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SACHIN DATTA

REKHA PALLI, J (ORAL)

CM APPL. 1789/2024 -Ex., CM APPL. 1790/2024 -Ex., CM APPL. 1791/2024 -LLOD.

1. Exemptions allowed, subject to all just exceptions.
2. The lengthy synopsis and list of dates is taken on record.
3. The applications stand disposed of.

W.P.(C) 386/2024 & CM APPL. 1788/2024 -Stay., CM APPL. 1792/2024 -Addl. doc.

4. The present writ petition under Articles 226 of the Constitution of India seeks to assail the order dated 19.01.2023 passed by the learned



Central Administrative Tribunal in O.A. No.2122/2017. Vide the impugned order, the learned Tribunal has allowed the O.A preferred by the respondents by relying on the order passed by the Bangalore Bench of the learned Tribunal on 20.07.2018 in O.A.252/2017.

5. While passing the impugned order, the learned Tribunal took cognizance of the fact that the order passed by the Bangalore Bench of the learned Tribunal in O.A.252/2017 had been unsuccessfully assailed before the Karnataka High Court by way of WP(C) 50821/2018, but a Special Leave Petition against the same was pending consideration before the Apex Court. Therefore, while allowing the OA preferred by the respondents, the learned Tribunal directed that the parties would remain bound by the decision of the Apex Court, as may be passed. Soon thereafter, the SLP preferred by the petitioners being SLP (C) No. 2671/2023 came to be rejected by the Apex Court on 03.02.2023 with an observation that the question of law was being left open to be decided in an appropriate case.
6. In support of the petition, learned senior counsel for the petitioner submits that the order passed by the Bangalore Bench in O.A. 252/2017, on which the impugned order is based, is clearly erroneous and is liable to be set aside. He contends that once the Apex Court has clarified that the question of law was being left open, this Court ought to examine the claim of the respondents on its own merit. The impugned order which is a non-speaking order having been passed without examining the matter on merits, ought therefore to be set aside.
7. In order to appreciate the submissions of the learned senior counsel



for the petitioners it may be apposite to at the outset note the relevant extracts of the impugned order, which read as under—

”4. At this stage, learned counsel for the applicants states that the OA be decided in terms of the order passed by the Bangalore Bench of this Tribunal and the applicants shall respect the orders passed by the Hon'ble Apex Court.

5. In view of the statement made by the learned counsel for applicants, more so when the subject matter of the present O.A. and O.A. 252/2027 decided by the Bangalore Bench of this Tribunal is identical, we follow the order passed in O.A. No. 252/2017. Accordingly, this O.A. is allowed. Consequently, the Office Memoranda dated 14.01.2016, 01.04.2016, 07.06.2016, 24.01.2017 and 01.05.2017 Annexures A-1 to A-4 (colly) are quashed and set aside qua the applicants. The respondents are directed to extend the benefits in terms of the order dated 20.07.2018 with all consequential benefits.

6. It made clear the parties shall be bound by the decision passed by the Hon'ble Apex Court in SLP filed by Diary No. 42197/2022, so pending mentioned above.”

8. From a perusal of the aforesaid, it is evident that on 19.01.2023 itself, it was clear to both the parties that they will be bound by the order passed by the Apex Court in the pending SLP filed by the petitioner wherein the order passed by the Bangalore Bench on 20.07.2018 was, along with the order passed by the Karnataka High Court on 11.04.2022, was under challenge. At that stage the petitioners did not challenge the impugned order and thereby accepted the position that



they would be bound by the orders passed in their pending SLP. emerges that the learned Tribunal, in view of the statement made by.

9. We may now note the order passed by the Apex Court on 03.02.2023 whereby the aforesaid SLP preferred by the petitioner was dismissed. The same reads as under-

*“The special leave petition is dismissed. However, question of law is left open to be decided in an appropriate case.
Pending application(s) stands disposed of.”*

10. From the aforesaid, what emerges is, that the Apex Court while rejecting the petitioner's challenge to the order of the Bangalore Bench had simply clarified that the question of law was being left open to be decided in an appropriate case. This, in our considered view, would not entitle the petitioners to seek reopening of matters, which had already been given a quietus way back on 19.01.2023. The petitioners have approached this Court after almost one year of the impugned order being passed and 11 months after the orders passed in the SLP. This in itself shows that the petitioners were always well aware that they were bound to extend the benefits of the orders passed by the Bangalore Bench to the applicants in the present case as well.
11. In the light of the aforesaid we find no reason to interfere with the impugned order. The writ petition being meritless is, accordingly, dismissed.
12. Needless to state in view of the observation by the Apex Court, leaving the question of law open, the dismissal of this writ petition will not preclude the petitioners from raising their objections in any



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pending or future cases where similar relief is being sought by any other employee. It is, however, made clear that objections, if any raised by the petitioners will be considered by the appropriate Court on its own merits.

REKHA PALLI, J

SACHIN DATTA, J

JANUARY 11, 2024

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